

SENATE BILL 2718
By Burchett

AN ACT to amend Tennessee Code Annotated, Title 13 and Title 66, relative to display of the flag of the United States in certain residential areas.

WHEREAS, it is the sense of the general assembly that homeowners throughout the state should have a legal right to properly display a flag of the United States on their separately owned real property or in their exclusive common area; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, is amended by adding sections 2 through 5 of this act as a new, appropriately designated part.

SECTION 2. Owners of a separate interest in a common interest development are hereby specifically included within the group of owners and occupiers of land who have a legal right to properly display a flag of the United States on their separately owned property or exclusive common area.

SECTION 3. Except as required for the protection of the public health or safety, no declaration or other governing document of property located within a development included in or referred to in section 2 shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by an owner on his or her separately owned real property or in their exclusive use common area. Provided, that such declaration or other governing document may limit the height and placement of a flagpole for displaying the flag in order to prevent the flag, while being displayed or flown, from falling beyond the owner's property line or exclusive use common area.

SECTION 4. Such display of the United States flag shall be in accordance with United States Code, Title 4, §§ 5 – 10 relating to proper flag etiquette.

SECTION 5. The prevailing party in any action to enforce the provisions of this part, shall be awarded reasonable attorney's fees and costs.

SECTION 6. This act shall take effect July 1, 2004, the public welfare requiring it.